

# HFA - HOSTETLER FONTAINE & ASSOCIATES

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Senate Committee on Reforms, Restructuring and Reinventing

Dear Chairman Jansen and Members of the Committee:

We would to thank the committee for the opportunity to address issues regarding Vocational Rehabilitation and Wage Earning Capacity Analyses; or what is referred to as Stokes/Lofton Evaluations. Our purpose is to explain how these evaluations work and that the results are not "virtual or theoretical".

My colleagues and I provide expert opinions in a number of arenas. These include Social Security, Auto No-Fault, Veterans Affairs, Workers' Compensation, Long-Term Disability and for various State Circuit and Federal District Courts. These opinions, along with other information is used by various agencies and courts to assist in making a determination of a person's "employability and ability to earn wages".

The purpose of these evaluations is to reach objective findings regarding an individual's employability and wage earning capacity given a certain unique set of circumstances. We explore whether or not a person's knowledge, skills, and current physical abilities translate into being capable of working and earning wages within their local labor market. Following a clinical interview and records review, information regarding the jobs performed by the individual is compiled and cross-referenced with various Federal and State resources (e.g., DOT, ONET) to obtain specific vocational information useful in identifying transferable occupations. Once these occupations are identified, wage information, as well as the availability of employment is further obtained through the use of various Occupational Employment Statistics (OES) published by the State of Michigan and the United States Bureau of Labor Statistics.

All of this information is utilized to perform a Transferable Skills Analysis. The Transferable Skills Analysis assists Vocational Experts in understanding how one job is similar to another.

A Transferable Skills Analysis is a tool; an assessment or collection of data that requires the interpretation of a Vocational Expert. This is no different than the need of a medical expert to interpret lab results. For over 50 years, various governmental agencies and courts have recognized the need for the Vocational Expert to interpret this information.

The process of analyzing vocational knowledge and skills is set forth in a standard methodology, supported by ethical standards, and has been used by hundreds of vocational counselors and similar human service professionals. It entails an interview of the individual regarding their background information, education and training, employment history, including military training and service. Medical reports are reviewed to obtain information about the individual's ability to physically function. Various tools and methods, as previously described, are used to assess, evaluate and identify if the individual has transferable skills. Statistical information regarding availability and wages for transferable jobs are gathered through both State and Federal resources. If transferable occupations exist, then further information is gathered regarding the availability of employment in the local labor market through traditional job search methods. This

includes assessing a variety of private, state, and federal job posting databases to review job postings and gather information regarding job demand, location, and pay. This practical survey allows the Vocational Expert to gather information about real jobs that pay real wages that exist in the real world. These are not "virtual or theoretical" jobs.

The evaluations developed in the wake of "Stokes/Lofton" are in excess of the standards required in Social Security. In Social Security, it is irrelevant whether the work exists in the immediate area where the claimant lives, a specific job vacancy exists, or the claimant would be hired if he or she applied for the work. In our evaluations, we explore the local labor market through labor market surveys to ensure the availability of the type of work we feel the individual can still perform. We cannot guarantee any individual is going to get hired on any given day. There are numerous reasons why a person does and does not get a job. We can, however, identify whether or not they have the transferable skills to perform the work, that the work exists in substantial numbers in the individual's geographic area, and if actual job openings exist.

This information can be used by the "Trier of Fact" to assist them in making a determination of whether or not an individual can earn wages.

My colleagues and I recognize the utility of forensic rehabilitation and wage earning capacity evaluations being performed today. We also continue to support the sections of the existing Workers' Compensation Act that provide vocational rehabilitation services to injured workers in the state of Michigan.

Please understand this is a very brief summary of a complex process.

Should any member of the committee have questions, my colleagues and I will be available at your convenience.

Sincerely,

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